

**MINUTES OF THE  
IDAHO STATE BOARD OF PHARMACY**

**JUNE 9-10, 2005**

**COEUR D' ALENE RESORT,  
COEUR D' ALENE, ID.**

Chairman Frank Casabonne R.Ph. called the meeting to order at 8:30 A.M. Also in attendance were Board members Kitty Gurnsey; Mike Merrill R.Ph.; Marilyn Silcock PharmD and Dwayne Sheffler R.Ph. Also present were Richard Markuson, Executive Director; Fred Collings, Senior Investigator; Dustie Reyna, Investigative Assistant and Jan Atkinson, Senior Compliance Officer. Representing the Board as legal counsel were Kent Nelson, Deputy Attorney General and Cheri Bush, Deputy Attorney General.

Mike Merrill made a motion to approve the minutes from the February 11, 2005 meeting as written. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Pharmacist Stephen M. Fogg and pharmacy technician Rachelle Pierson each requested reconsideration by the Board members on the amount of the fines imposed as well as the manner in which the Board came to their decision. The Board members asked that prior to making any motions the record reflect there was no dispute on the factual matters of either citation, only the amount of each fine. Kitty Gurnsey stated that in the future the Board members should set up guidelines for assessing fines for specific infractions. Board members agreed to allow the Board Chairman to vote during this meeting on motions where one or more Board members abstain.

Regarding citation # 1200 issued to pharmacist Stephen M. Fogg: Following a brief discussion Dwayne Sheffler made a motion that the initial action of the Board remain unchanged and Mr. Fogg receive a \$1000 fine and a letter of reprimand in his file. Dwayne Sheffler also directed Board staff to include Mr. Fogg's option for a board hearing in the Board's response. Kitty Gurnsey seconded the motion. Mike Merrill and Dr. Silcock abstained from the vote. Motion carried.

Regarding citation # 1301 issued to pharmacy technician Rachelle Pierson: Following a brief discussion Dwayne Sheffler made a motion that the initial action of the Board remain unchanged and Ms. Pierson receive a \$500 fine and a letter of reprimand in her file. Dwayne Sheffler directed Board staff to include Ms. Pierson's option for a board hearing in the Board's response. Kitty Gurnsey seconded the motion. Mike Merrill and Dr. Silcock abstained from the vote. Motion carried.

Mike Merrill made a motion to reconsider Mr. Dixon's citation. Dr. Silcock seconded the motion. Motion unanimously carried. Regarding citation # 1333 issued to pharmacist William Dixon: Mike Merrill made a motion to fine Mr. Dixon \$200 and immediately suspend the fine and make it payable upon renewal of his Idaho pharmacist license. Dr. Silcock seconded the motion. Motion unanimously carried. Board staff will also notify Mrs. Johnson regarding the final Board action on William Dixon's citation.

Regarding citation # 1290 issued to pharmacist Kenneth Wigg: Dwayne Sheffler made a motion to fine Mr. Wigg \$200 and place a letter of reprimand in his file. Mr. Wigg was also required to submit a written response explaining how he plans to prevent this type of error from occurring in the future. Kitty Gurnsey seconded the motion. Motion unanimously passed.

Regarding citation # 1289 issued to pharmacist Harold Lyons: Mike Merrill made a motion to fine Mr. Lyons \$200 and place a letter of reprimand in his file. Mr. Lyons was also directed to submit a written policy to the Board outlining how he will handle all future Fax Alert Notifications. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Board members discussed the Fax Alerts sent by Board staff and suggested notifying the pharmacies these alerts are all official communications from the Board and they are required to follow all directives issued in the alerts.

Farm City Animal Supply Inc. requested that Board review of citation # 2576 be tabled until the next board meeting scheduled to be held in Boise in order to facilitate their appearance. Dr. Silcock stated that it was always beneficial for the individuals to appear and made a motion to table the citation until the Boise meeting. Kitty Gurnsey seconded the motion. Motion unanimously carried. The Board asked Mr. Markuson to notify Farm City management that their citation would be reviewed during the Boise board meeting.

Regarding citation # 1375 issued to pharmacist Shah Afshar: Dr. Silcock made a motion to fine Mr. Afshar \$200 and place a letter of reprimand in his file. Mr. Afshar was also instructed to submit a written response addressing all corrective action taken, which Ms. Atkinson indicated had been submitted prior to the board meeting, and was also verified by board inspector Lisa Culley. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Board Chairman Frank Casabonne requested unanimous Board consent to discuss citation # 1304 issued to Dan Fuchs and citation # 1305 issued to Edward Fuchs together. The board members unanimously agreed to discuss both citations together and then address each citation's disciplinary actions separately.

Regarding citation #1304 issued to pharmacist Dan Fuchs: Mike Merrill made a motion to fine Mr. Fuchs \$100 and place a letter of reprimand in his file. The Board also directed Mr. Fuchs to submit documentation on all corrective action and their enforcement policy for preventing emergency kit outdates in the future. A policy and procedure on tracking emergency kit outdates was submitted to the Board office prior to the board meeting by Edward Fuchs and all corrective action was completed and verified by board inspector Mike Brown. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding citation #1305 issued to pharmacist Edward Fuchs: Mike Merrill made a motion to fine Mr. Fuchs \$100 and place a letter of reprimand in his file. The Board also directed Mr. Fuchs to submit documentation on all corrective action and include their enforcement policy for preventing emergency kit outdates in the future. A policy and procedure on tracking emergency kit outdates was submitted to the Board office prior to the board meeting by Ed Fuchs and all corrective action was completed and verified by board inspector Mike Brown. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding citation #1288 issued to pharmacist Lynette Miyasko: Kitty Gurnsey thanked Ms. Miyasko for her assistance in apprehending the suspect and applauded the Board's Fax Alert program, stating that overall the Board's mission regarding this issue had been successful. Ms. Gurnsey made a motion to vacate Ms. Miyasko's citation and no further action would be required. Dr. Silcock seconded the motion. Mike Merrill voted no on the motion. Motion carried.

Regarding citation # 1808 issued to pharmacist Chad Brown: Dwayne Sheffler made a motion to fine Mr. Brown \$200 and place a letter of reprimand in his file. Mr. Brown was also instructed to submit a written response addressing the corrective measures he has taken to assure the Board that all med sets dispensed by Jack's Pharmacy are labeled correctly. Dr. Silcock seconded the motion. Motion unanimously carried.

Board Chairman Frank Casabonne requested unanimous Board consent to discuss citations 1801, 1802, 1803, 1804, 1805, 1806 and 1807 together. All citations were issued to pharmacy personnel at Hodgins Drug and are related. The board members unanimously agreed to discuss all the citations jointly and then address each citation's disciplinary actions separately.

Regarding citation # 1801 issued to pharmacy technician Erin Sorensen: Mike Merrill made a motion to fine Ms. Sorensen \$100 and place a letter of reprimand in her file. Dr. Silcock seconded the motion. Motion unanimously carried.

Regarding citation # 1802 issued to pharmacy technician Larry Hays: Mike Merrill made a motion to fine Mr. Hays \$100 and place a letter of reprimand in his file. Dr. Silcock seconded the motion. Motion unanimously carried. Regarding citation #1803 issued to pharmacist Liane Reynolds: Mike Merrill made a motion to fine Ms. Reynolds \$500 and place a letter of reprimand in her file. Ms. Reynolds was directed to correct all deficiencies identified in the pharmacy inspection report within 60 days and notify the Board in writing when it has been accomplished or the pharmacy would be closed. Dr. Silcock seconded the motion. Motion unanimously carried.

Regarding citation # 1804 issued to pharmacist Liane Reynolds: Mike Merrill made a motion to fine Ms. Reynolds \$200 and place a letter of reprimand in her file. The Board also instructed Ms. Reynolds to submit a plan of corrective action to the Board addressing the name badge issue. Dr. Silcock seconded the motion. Motion unanimously carried.

Regarding citation #1805 issued to pharmacist Liane Reynolds: In light of the monetary fines previously imposed upon Ms. Reynolds Kitty Gurnsey made a motion that no additional fine be imposed for this citation but directed Ms. Reynolds to submit a letter addressing her corrective measures for obtaining positive ID for controlled substance prescriptions as required by Rule 433.10. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding citation # 1806 issued to pharmacy technician and owner Pam Hays: Mike Merrill made a motion to fine Ms. Hays \$100 and place a letter of reprimand in her file. Dr. Silcock seconded the motion. Motion unanimously carried.

Regarding citation # 1807 issued to pharmacist and owner Robert Beutler: Mike Merrill made a motion to fine Mr. Beutler \$500 and place a letter of reprimand in his file. Mr. Beutler was directed to correct all deficiencies identified in the pharmacy inspection report within 60 days or the pharmacy would be closed. Dr. Silcock seconded the motion. Motion unanimously carried.

### **Hearing Proceedings 11:30 A.M.**

In the Matter of the License of Alpha Drugs, Inc., Mail Service Pharmacy 1872MS, Case No. BOP 05-133: Mike Merrill made a motion to accept Alpha Drug's return of their Mail Service Pharmacy license. Prior to any future licensure of Alpha Drugs, Inc. a fine in the amount of \$100,000.00 and any associated legal costs, to be determined by Board staff and Board legal counsel, must be paid by. The Board agrees to suspend all fines and costs pursuant to such time as the applicant applies for registration at some future date. If, at some later date, Alpha Drug's application is submitted to the Board for consideration the Board would require additional assurances from Alpha Drug, Inc. that they will not continue to practice Telemedicine as defined in today's hearing proceedings. Dr. Silcock seconded the motion. Motion unanimously carried.

In the Matter of the License of Warren F. Dopson, M.D.: Controlled Substance Registration No. CS10277, Case BOP 03-096: In lieu of the fact that six months had lapsed without any further indication of a problem Dr. Silcock made a motion to take no further action regarding this matter. Motion unanimously carried.

In the Matter of the License of Trevor Cummings, License No. P5635 and CS9278, Case No. BOP 04-015: Mike Merrill made a motion to dismiss without censure. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Aaron Long, Donovan Victorine and Kory VanderSchaaf representing the Professional Pharmacy Student Alliance presented a proposal to the Board members requesting consideration for adopting the term "Student Pharmacist" as the designation for students in their professional years of an ACPE accredited program, in lieu of "intern" or "extern" as they are currently identified by IDAPA 27.01.01 Rule 010. Dean Steiner, ISHP and ISPA also expressed their support for the proposed change in terminology. The Board members indicated the proposal would require a legislative change and would require a substantial cost to the Board. In lieu of a legislative change the Board established that the students could refer to themselves as "Student Pharmacists" as long as their preceptor site was in agreement. The current registration requirement will continue to require referencing them as "intern" and "extern" but there is no current rule requiring them to use that terminology in the pharmacy or on their name badges.

During legislation and rule review Mr. Markuson discussed the Naturopathic Physicians Licensing Act that will take effect on July 1, 2005. The formation of a Naturopathic Medical Formulary Council will require three members of the council to be registered Idaho pharmacists. The Board staff hopes to work with Occupational Licensing in order to have the information on licensed Naturopaths and the approved medical formulary available to pharmacists on the Board of Pharmacy website as soon as it is available.

Stan Gibson requested a Board interpretation of Rule 162 due to the recent rule change increasing the length of time a prescription can be legally refilled from twelve months to fifteen months. Jan Atkinson stated that as long as a prescription has a PRN designation it could legally be entered in the pharmacy computer as valid for fifteen months. If the prescription indicates one year or twelve refills it cannot be defaulted to fifteen months without contacting the practitioner and noting the verbal change. It may be some time before practitioners are fully aware of the rule change increasing the length of time a prescription is valid. Pharmacists may need to talk to the practitioners if they are unsure of their intention. Mr. Gibson also addressed the issue of practitioners mixing controlled substances and legend drugs on one prescription blank and possibly limiting the number of prescriptions that may be written on one blank.

The issue of pharmacies obtaining and maintaining positive identification for controlled substance prescriptions was also discussed. Fred Collings and Jan Atkinson stated that the inspectors are required to verify that pharmacies are obtaining positive ID and suggested Rule 433.10 be expanded or clarified to indicate the requirements and methods for obtaining and verifying that information.

Mike Merrill indicated that he was unhappy with the moratorium on assisted living facilities and the issue of faxing and felt it has given the impression to assisted living facilities that they can now do whatever they want while it is in place. Mr. Merrill requested that the Board members make a final determination on how the faxing of prescriptions from these facilities is to be handled. After additional discussion the Board determined that the moratorium would be lifted following a Compliance Alert notifying all Idaho pharmacies and the Idaho Assisted Living Association (IDALA) of a Board decision stating that pharmacies may receive oral prescriptions from the practitioner or their agent only and a faxed prescription must be received directly from the practitioner.

During the election of officers Dr. Silcock nominated Dwayne Sheffler as Chairman and Frank Casabonne seconded the motion. Unanimous consent carried the motion. Frank Casabonne nominated Kitty Gurnsey as Vice-Chairman and Dr. Silcock seconded the motion. Unanimous consent carried the motion. Frank Casabonne thanked Dr. Marilyn Silcock for her outstanding ten years of dedicated service to the Board.

Future Meetings: Mick Markuson and Fred Collings will attend a Diversion Meeting in Coeur d' Alene scheduled for July. The next Board meeting will be held in Boise on August 19, 2005.